

MINUTE ITEM

11. APPLICATION FOR DREDGING PERMIT, SAN FRANCISCO BAY, CITY AND COUNTY OF SAN FRANCISCO AND MARIN COUNTY; SAN FRANCISCO PORT AUTHORITY - W.O. 4272, P.R.C. 3042.1.

Miss Miriam E. Wolff, Deputy Attorney General, appeared on behalf of the San Francisco Port Authority in connection with Calendar Item 20 attached, to ask the Commission to find that it was in the best interests of the State to permit the Port Authority to have the sand and gravel it needs from Point Knox Shoal without cost, or, at least, at a lower cost than that recommended by the staff, outlining her reasons therefor. A detailed presentation and discussion followed, during which the Executive Officer reviewed the premises for the staff recommendation, and the Chairman stated that if no charge was made for the material it would in effect become a general fund subsidy.

UPON MOTION MADE BY COMMISSIONER ANDERSON AND SECONDED BY COMMISSIONER CHAMPION, THE FOLLOWING RESOLUTION WAS ADOPTED, WITH MR. HURLEY ABSTAINING FROM VOTING:

THE COMMISSION:

1. FINDS THAT THE ACTION SPECIFIED IN THE APPLICATION OF THE SAN FRANCISCO PORT AUTHORITY WILL NOT UNREASONABLY INTERFERE WITH THE MAINTENANCE OR USE OF THE LANDS INVOLVED FOR RECREATIONAL PURPOSES OR FOR PROTECTION OF SHORELINE PROPERTIES; AND
2. AUTHORIZES THE EXECUTIVE OFFICER TO ISSUE A PERMIT TO THE SAN FRANCISCO PORT AUTHORITY AUTHORIZING THE DREDGING OF APPROXIMATELY 3,500,000 CUBIC YARDS OF MATERIAL FROM SOUTHAMPTON SHOAL, TELEGRAPH SHOAL, PRESIDIO SHOAL, AND POINT KNOX SHOAL, CITY AND COUNTY OF SAN FRANCISCO AND MARIN COUNTY, SUBJECT TO THE FOLLOWING CONDITIONS:
  - A. THE COMMISSION SHALL BE GIVEN FORTY-FIVE DAYS' NOTICE OF THE PORT AUTHORITY'S INTENTION TO EXTRACT MATERIAL FROM ANY AREA UNDER LEASE;
  - B. OPERATIONS BY THE PORT AUTHORITY CONTRACTORS SHALL BE CONDUCTED SO AS NOT TO BE INCONSISTENT WITH OR INTERFERE WITH RIGHTS UNDER EXISTING LEASES;
  - C. THE AMOUNT OF MATERIAL EXTRACTED BY THE PORT AUTHORITY CONTRACTORS FROM ANY SHOAL AREA PRESENTLY UNDER LEASE SHALL BE DETERMINED BY MUTUAL AGREEMENT BETWEEN THE STATE LANDS DIVISION, THE STATE'S LESSEES, AND THE PORT AUTHORITY, AND SHALL BE LIMITED AND APPORTIONED SO AS NOT TO DEplete EXCESSIVELY THE SUPPLY OF MATERIAL AVAILABLE ON SUCH SHOAL AREA, TO ASSURE THAT THE EXISTING LEASEHOLD WILL NOT BECOME VALUELESS.
  - D. THE PORT AUTHORITY MAY EXTRACT MATERIAL FROM SHOAL AREAS WITHIN THE CITY AND COUNTY OF SAN FRANCISCO UNDER THE JURISDICTION OF

THE SAN FRANCISCO PORT AUTHORITY WITHOUT THE PAYMENT OF ROYALTY.  
THE PORT AUTHORITY SHALL PAY A ROYALTY OF EIGHT CENTS PER CUBIC  
YARD FOR MATERIAL EXTRACTED FROM SHOAL AREAS IN MARIN COUNTY.

- E. THE PORT AUTHORITY SHALL SECURE A DEPARTMENT OF THE ARMY PERMIT  
FROM THE U. S. CORPS OF ENGINEERS AUTHORIZING THE CONDUCT OF  
DREDGING OPERATIONS IN EACH OF THE ABOVE AREAS.

Attachment

Calendar Item 20 (2 pages)

CALENDAR ITEM

20.

APPLICATION FOR DREDGING PERMIT, SAN FRANCISCO BAY, CITY AND COUNTY OF SAN FRANCISCO AND MARIN COUNTY; SAN FRANCISCO PORT AUTHORITY - W.O. 4272.

An application has been received from the San Francisco Port Authority for a permit to dredge from four areas in San Francisco Bay designated as Southampton Shoal, Point Knox Shoal, Presidio Shoal, and Telegraph Shoal, in San Francisco and Marin Counties.

Point Knox Shoal lies partially in the City and County of San Francisco and principally within Marin County. Southampton, Telegraph and Presidio Shoals lie in the area of the City and County of San Francisco that is under the jurisdiction of the Port Authority as defined in Attorney General Opinion 63/18.

Currently, there are nonexclusive mineral extraction leases in effect covering Southampton, Presidio, and Point Knox Shoals.

The extraction operations, to be conducted under contract between the Port Authority and private contractors, will be for the construction of a new shipping terminal in the Islais Creek area of San Francisco. The construction will include the dredging in the shoal areas and placement of approximately 3,500,000 cubic yards of sand suitable for structural purposes on property owned by the Port Authority.

With respect to the Port Authority's application:

1. The Division of Beaches and Parks in the Resources Agency has advised that the proposed dredging will not affect that Division's interests nor activities.
2. The office of the Attorney General has advised: (a) Provided the Port's contractors do not interfere with extraction operations under existing leases, extraction for the Port Authority from the areas involved can take place without liability accruing to the State; (b) in the opinion of the office of the Attorney General (1) the Port Authority may use sand and gravel from areas within its jurisdiction without payment of royalty; (2) whether or not the Port Authority must pay royalty for sand and gravel extraction from areas outside of the Port Authority's jurisdiction is discretionary with the Commission.

In connection with 2(b) above, Section 6303 of the Public Resources Code provides in part: "When a contractor...has a contract with...any authorized public agency to dredge...tide and submerged lands...for the improvement of navigation...the Commission may, when in the best interests of the State, allow such contractor to have sand, gravel, or other spoils dredged from the sovereign lands...upon such terms and conditions and for such consideration as will be in the best interests of the State..."

CALENDAR ITEM 20. (CONTD.)

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTION SPECIFIED IN THE APPLICATION OF THE SAN FRANCISCO PORT AUTHORITY WILL NOT UNREASONABLY INTERFERE WITH THE MAINTENANCE OR USE OF THE LANDS INVOLVED FOR RECREATIONAL PURPOSES OR FOR PROTECTION OF SHORELINE PROPERTIES; AND
2. AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE A PERMIT TO THE SAN FRANCISCO PORT AUTHORITY AUTHORIZING THE DREDGING OF APPROXIMATELY 3,500,000 CUBIC YARDS OF MATERIAL FROM SOUTHAMPTON SHOAL, TELEGRAPH SHOAL, PRESIDIO SHOAL, AND POINT KNOX SHOAL, CITY AND COUNTY OF SAN FRANCISCO AND MARIN COUNTY, SUBJECT TO THE FOLLOWING CONDITIONS:
  - A. THE COMMISSION SHALL BE GIVEN FORTY-FIVE DAYS' NOTICE OF THE PORT AUTHORITY'S INTENTION TO EXTRACT MATERIAL FROM ANY AREA UNDER LEASE;
  - B. OPERATIONS BY THE PORT AUTHORITY CONTRACTORS SHALL BE CONDUCTED SO AS NOT TO BE INCONSISTENT WITH OR INTERFERE WITH RIGHTS UNDER EXISTING LEASES;
  - C. THE AMOUNT OF MATERIAL EXTRACTED BY THE PORT AUTHORITY CONTRACTORS FROM ANY SHOAL AREA PRESENTLY UNDER LEASE SHALL BE DETERMINED BY MUTUAL AGREEMENT BETWEEN THE STATE LANDS DIVISION, THE STATE'S LESSEES, AND THE PORT AUTHORITY, AND SHALL BE LIMITED AND APPORTIONED SO AS NOT TO EXCESSIVELY DEplete THE SUPPLY OF MATERIAL AVAILABLE ON SUCH SHOAL AREA, TO ASSURE THAT THE EXISTING LEASEHOLD WILL NOT BECOME VALUELESS.
  - D. THE PORT AUTHORITY MAY EXTRACT MATERIAL FROM SHOAL AREAS WITHIN THE CITY AND COUNTY OF SAN FRANCISCO UNDER THE JURISDICTION OF THE SAN FRANCISCO PORT AUTHORITY WITHOUT THE PAYMENT OF ROYALTY. THE PORT AUTHORITY SHALL PAY A ROYALTY OF EIGHT CENTS PER CUBIC YARD FOR MATERIAL EXTRACTED FROM SHOAL AREAS IN MARIN COUNTY.
  - E. THE PORT AUTHORITY SHALL SECURE A DEPARTMENT OF THE ARMY PERMIT FROM THE U. S. CORPS OF ENGINEERS AUTHORIZING THE CONDUCT OF DREDGING OPERATIONS IN EACH OF THE ABOVE AREAS.